



Office of the

# Maine Attorney General

## CONSUMER PROTECTION BULLETIN

FALL 2004

### CELLULAR PHONE SHOPPING JUST GOT EASIER

On July 21, Attorney General Rowe announced the signing of agreements between consumer protection authorities in 32 states and three major wireless phone service carriers, Verizon Wireless, Sprint PCS, and Cingular Wireless (collectively "the carriers"). The agreements require the carriers to:

- provide to consumers coverage maps that are as accurate as possible under current technology;
- give consumers at least a two-week trial period during which they can terminate service contracts without incurring termination penalties; and
- more clearly and conspicuously disclose information about wireless plan rates, terms, and coverage areas in advertising and contact materials.



The agreements are the result of months of negotiation by the states concerning allegations that the carriers misrepresented the extent of the application of discount rates and special offers and the geographic range of plan coverage areas.

These agreements will help consumers get clearer information and make good decisions. Under these agreements, consumers will have a trial period to find out if they have wireless service where they live, work, and play. If the consumer is not happy with the wireless service, they may return the phone within 14 days and not pay a termination penalty. If the consumer returns the phone within three days, they will also receive a refund of any activation fee they may have paid.

In addition to paying the costs of the states' investigation, the carriers have paid \$5 million to states. Maine's share of the payment was \$106,667, which has been deposited in the State General Fund.

#### CONTACT INFORMATION

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## SCAM EMAILS “PHISHING” FOR FINANCIAL INFO

“Phishing” is computer slang for fraudulently fishing for the private financial information of computer users. Scam artists send emails resembling those from familiar companies—Citibank, PayPal, EBay, Visa, Yahoo, and Amazon.com are common—asking for the user to click on a web address within the email to “verify” account information. The information is then used by the scammers to hijack the users’ credit cards, bank accounts, or financial identity.

To protect yourself:

- Never click on a link within an email. The text you see as the link may not be where the link takes you.
- Use anti-spam filter software. Up to 85% of Phishing scams are conducted via spam.



For more tips on “Phishing,” visit [www.fraudwatchinternational.com/internetfraud/phishing/protect.htm](http://www.fraudwatchinternational.com/internetfraud/phishing/protect.htm).

FOR MORE  
CONSUMER  
ALERT  
INFORMATION  
VISIT THE  
FEDERAL TRADE  
COMMISSION  
WEB SITE AT  
[WWW.FTC.GOV](http://WWW.FTC.GOV)

## PROGRESS AGAINST “NIGERIAN SCAM”

If you haven’t received at least one email from a person in Nigeria or another country offering to send you money, you probably don’t have an email account. The U.S. Department of State reports that each year U.S. citizens lose hundreds of millions of dollars responding to these types of solicitations. The Departments of State, Justice, Commerce, and Treasury, the Postal Service, and the African governments, have taken measures to warn Americans of the dangers of responding to unsolicited business proposals from Africa. The Department of Justice has also successfully prosecuted some Nigerian scam artists arrested in the U.S.

If you receive one of these solicitations, just delete it. Go to [www.secretservice.gov/alert419.shtml](http://www.secretservice.gov/alert419.shtml) or call 202-776-8726 to receive more information



## CHECK IT OUT HOTLINE STEMS FRAUD

Maine has the 3rd oldest population in the nation. Public officials and elder advocates are working together to reduce older Mainers’ vulnerability to financial fraud.

The Check It Out Hotline is one free way to avoid a costly mistake. As the ad at left says: Before you agree to home repairs, before you give your credit card number to a telemarketer, before you sign a contract for a major purchase, check it out. Call the Check It Out Hotline toll-free at 1-877-353-3771 (1-877-ELDERS-1).

AVOID FINANCIAL FRAUD  
**Check It Out**



*Before* you agree to home repairs...

*Before* you give your credit card number to a telemarketer...

*Before* you sign a contract for a major purchase...

**Check it out!**  
CALL THE ELDERS 1 HOTLINE,  
TOLL FREE:

**1-877-353-3771**

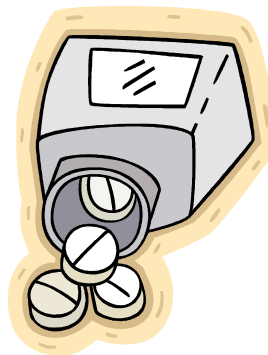
## AG RX WORK PAYS OFF FOR CONSUMERS

The high costs of prescription drugs have strained our state budget and made it impossible for many of our citizens to access necessary medications. The Attorney General's Office is fighting for more affordable prescription drugs for Mainers by enforcing existing antitrust and consumer protection laws against drug manufacturers, benefits managers, and pharmacies.

As shown below, these efforts have resulted in more than \$1.7 million paid in restitution, fines, and penalties in FY 04. (This does not include the \$1.08 million Omnicare settlement in August or other post-June 2004 monetary awards.) The office also requires tough court orders that are aimed at preventing the anti-consumer conduct from happening again. These court orders are changing the prescription drug business, one case at a time.

As head of the National Association of Attorneys General (NAAG) Prescription Pricing Task Force, AG Rowe also ral-

lied 20 other state AGs to push the federal government to facilitate safe prescription drug importation to help reduce prices. Rowe also represented NAAG at a hearing before the U.S. Department of Health and Human Services' Task Force on Drug Importation on May 5, 2003. He told the Task Force, "I continue to be dumfounded by FDA officials' intransigent attitude toward importation. I certainly want to ensure that citizens in my state access drugs that are safe. However, I believe that procedures exist to ensure that consumers are protected from unsafe drugs." Rowe offered a plan for how this could be done.



**MORE THAN  
\$1.7 MILLION  
IN  
RESTITUTION,  
FINES, AND  
PENALTIES  
HAVE BEEN  
PAID TO  
MAINE IN FY  
2004.**

### Deposit to State

Accounts FY 04	Defendant	Nature of case
\$198,258	Bristol-Myers Squibb (Taxol)	Antitrust; manufacturer blocking generic Taxol
610,620	Bristol-Myers Squibb (BuSpar)	Antitrust; manufacturer blocking generic BuSpar
124,013	Mylan Labs	Antitrust; manufacturer price-inflating marketing agreements
69,766	Aventis	Antitrust; manufacturer blocking generic Cardizem
25,630	Warner-Lambert (Pfizer)	Consumer; manufacturer off-label marketing of Neurontin
678,277	Medco	Consumer; PBM drug switching
<u>11,811</u>	CVS	Consumer; pharmacy short-filling prescriptions
<b>\$1,718,375 TOTAL</b>		

## LITIGATION HIGHLIGHTS: *PBMs*

The settlement in the Medco case marked the first time a Pharmacy Benefits Management company (PBM) was held accountable for its role in increasing costs of prescription drugs.

In addition to the monetary terms, the settlement prohibits Medco from switching patients from lower to higher costing drugs; switching patients when the prescribed drug has a generic equivalent and the new drug does not; making switches to avoid generic competition; and switching patients more than once in two years within the same therapeutic class. The settlement also requires Medco to make important disclosures to

prescribers and patients before a drug switch is finalized.

Last year the Maine Legislature passed a law to hold all PBMs more accountable by requiring PBMs to disclose conflicts of interest to the health plans. PCMA, the PBM trade association, sued the Attorney General in federal court to keep him from enforcing the new law. The AG's Office has been working diligently for almost a year to defend the law.

Maine's efforts in both litigation and legislation are changing the way the PBM industry does business.



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## STATE SETTLES SUIT AGAINST MAINE PHARMACY

In August, the Attorney General settled serious charges over illegal drug switching by Omnicare of Maine, a Gardiner-based pharmacy that serves clients in long-term care facilities statewide. The suit alleged that Omnicare violated the False Claims Act, the Unfair Trade Practices Act, and the Maine Pharmacy Act by switching patients from prescribed ranitidine tablets to *unprescribed* ranitidine capsules, changing the price MaineCare paid from \$15.10 per month in tablet form to \$82.77 per month in capsule form.

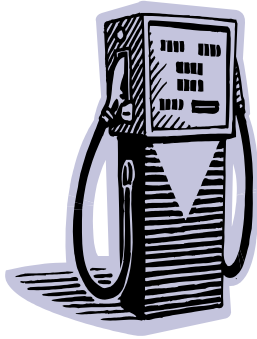
As a result of the suit, Omnicare has paid \$1,080,000 in restitution, fines, damages,

and costs to settle the case. Over \$800,000 will go directly to the MaineCare program. As part of the settlement, Omnicare will refrain from switching drugs for MaineCare patients without prior approval and will be monitored for compliance.

Attorney General Rowe said, "I am outraged by this violation of that trust and by the deliberate defrauding of MaineCare. The price of this case to this pharmacy says a million times over that the people of Maine will not stand by as the insurance program for our most vulnerable citizens is exploited by greedy providers."



## UNDERSTANDING GAS PRICES



Gas prices are not subject to cost-based regulation in the United States. Instead, prices are set by free market forces. At the wholesale level, international factors influence the price of crude oil. Even when crude oil prices are stable, gas prices normally fluctuate due to factors such as seasonality and local retail station competition. Prices change rapidly due to crude oil supply disruptions stemming from world events or domestic problems such as refinery or pipeline outages.

Over the past two years, the price of crude oil has accounted for about 43% of the cost of a gallon of regular gasoline. Federal and state taxes account for about 31%. Refining costs and profits make up about 13% of the retail price. Distribution, marketing and retail dealer costs and profits comprise another 13%.

As with most consumer products, retail gas markets with vigorous competition are likely to have lower

prices. Although prices are not regulated, antitrust laws forbid competitors from agreeing to unreasonably restrain trade. Competitors cannot agree to charge the same price or divide the market into territories. Retailers cannot engage in unfair sales practices such as predatory pricing or price-gouging.

Under a state law known as the Petroleum Market Share Act, the Attorney General oversees a program which collects and analyzes data relating to wholesale petroleum transactions. The purpose is to provide a basis for an annual assessment as to how well competition is working in retail petroleum markets.

Identical prices at the pumps of competitors in a Maine community are not necessary indicators of illegal activity. If consumers believe companies have agreed to anticompetitive activities, they should report this to the Attorney General.

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## ROWE CHAIRS YOUTH ACCESS TO ALCOHOL TASK FORCE



At the urging of Attorney General Rowe, the National Association of Attorneys General has formed the Youth Access to Alcohol Task Force to reduce underage drinking by studying youth exposure to alcohol advertising and access to alcohol, and by educating state Attorneys General on ways to reduce access. The Task Force, which has a bi-partisan membership of nine

Attorneys General, will study the alcohol industry's marketing practices and effectiveness of the industry's self-monitoring programs. It will also examine the effectiveness of state liquor enforcement programs and legislative initiatives and provide information regarding these programs and initiatives to other states.

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Dear Maine Consumer:

We are providing this Bulletin to advise you of our efforts to protect Maine citizens. We hope this information is helpful to you.

Best Wishes,

Steven Rowe  
Attorney General

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## **BUILDING OR RENOVATING YOUR HOME?**

### ***BE A SAVVY CONSUMER***

- Ask contractor for several references and check them
- Check complaint history on a contractor with:
  - Local Code Enforcement Officer
  - AG's Office Consumer Protection Division
  - Local building supply companies
- Use a contract
  - Maine law requires a contract for any project over \$3,000
  - You can download our form home construction contract at <http://www.state.me.us/ag/index.php?r=clg&s=chap18>
- Pay no more than one-third up front (Maine law forbids a contractor from accepting more than one-third of the contract price in advance)

